



November 14, 1979

Dear Mr. _____:

This is in response to your October 15, 1979, letter concerning _____ for the _____, _____, Inc., and the availability of the welfare exemption from property taxation.

Assuming that _____ is a corporation organized and operated for charitable purposes meeting the requirements of Revenue and Taxation code Section 214 et seq., of import with respect to the proposed thrift store operations is whether _____ will be the owner and operator of such store or stores, with _____ as the manager thereof, or whether _____ will be the owner thereof and _____ will be the operator thereof, as well as the manager. In the former instance, _____ thrift stores could receive the exemption, assuming all the requirements therefor were met. In the latter instance, they could not receive the exemption since _____ would not meet all the requirements therefor.

While the proposed Management Agreement has been revised several times in an attempt to establish that will be the owner and operator of the thrift stores, with _____ as the manager thereof, determinative will be what is actually the case on the March 1, 1980, list date, as determined by the county assessor or assessors in conjunction with the review and investigation of the claim or claims for exemption which will be filed, and as determined by the Board in conjunction with its review of the claim or claims. And, as indicated in our September 21, 1979, letter to you, also determinative is the actual use of thrift store properties themselves for rehabilitation purposes, not the purposes for which income derived therefrom is used.

With respect to the proposed Management Agreement, we offer the following:

- 1 and 3. _____ employment of only its managers and Services' employment of persons being rehabilitated and of any other persons in conjunction with thrift store operations would indicate that _____ - rather than _____ is the operator.
7. While we can recognize _____'s desire for direct communications with _____, if _____ is the operator, this means of communication from the operator to its manager is somewhat limited. Rather, with _____ as the operator, one would expect the opposite.
8. Assuming _____ employment of persons being rehabilitated and of others in conjunction with thrift store operations, _____'s direction and control of thrift store employees would not preclude a finding that _____ is the operator.

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9. If _____ is the operator, it would seem that it would be the person to obtain liability insurance.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fr

cc: Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Verne Walton (W. Grommet): Note that the proposed Management Agreement has incorporated our suggestion re: allowable management fees.

DAS File
Legal Section